

94-cr-462

United States District Court For The Eastern
District of Pennsylvania

United States of America

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JAN 23 2012

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Criminal No. 94 JAN 23 2012

v.

Derrick Williams

Amendment to Current Motion before the Court
Pursuant to 18 U.S.C. § 3582 (c) (2)
The Petitioner state to this Honorable Court
that in step with the Acts of the Congress,
and United States Sentencing Commission
and that the Department of Justice Charac-
terized that the 100:1 ratio was and is un-
justified, fundamentally unfair and racially
discriminatory. And the 2007 adjustments
by the Commission to the offense guidelines
for crack offenders was "a very small
step" toward rectifying a very large in-
justice. That 100:1 ratio affected the peti-
tioners sentence. The ratio is reflected in the
statutory maximum sentence prescribed in
21 U.S.C. § 841(b), which drives the calcula-
tion of offense level under any guideline
provision involving crack offenses. Had
the petitioner possessed the same amount

of powder rather than crack, his statutory maximum term of imprisonment would not be what it currently is. See § 841(b)(1)(C). The Supreme Court cautioned in *Freeman v. United States*, 131 S. Ct. 2685, 2694 (2011), that there is no need to interpret § 3582(c)(2) in a way that extends the benefit of the Commission's judgment only to an arbitrary subset of defendants or denies relief to defendants who linger in prison pursuant to sentences that would not have been imposed but for a since rejected, excessive range. According to U.S.S.G. § 1B1.10, a reduction in a defendant's sentence is not authorized if it does not have the effect of lowering the defendant's applicable guideline range. According to Amendment 750 as well as 2007 amendments. The petitioner's applicable guideline does actually have the effect of being lowered. Under the 2007 amendment the petitioner's sentence under a two-point reduction would go from offense level 32, criminal history category VI, 210 months to offense level 30, criminal history category VI, 168 months. Under 2011 amendment that same effect would

also result in a reduced sentence. See §1B1.10(a)(2)(B) As the petitioner has previously stated. His sentence should theoretically change as other crack offenders under the amendment
750

Conclusion

There is no need ^{to} extend the Commission's judgment only to an arbitrary subset of defendants, but not to the petitioner who's sentence was affected by the 100:1 ratio. The ^{petitioner} humbly hope this court will grant the petitioner ^{the relief} it seeks.

Date
1/14/12

Sign by
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